

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PAVLO BURLAKA, an individual,

Plaintiff,

-vs-

AMERO LOGISTICS, INC, a Texas
corporation,

Defendant.

Case No. CIV-19-94-R

COMPLAINT FOR PERSONAL
INJURIES

JURY DEMAND

COMES NOW plaintiff, Pavlo Burlaka, by and through his attorney of record,
Reed Yurchak, for cause of action and states and alleges as follows:

I. PARTIES

1.1 At all times relevant hereto plaintiff was a resident of Clark County,
Washington.

1.2 At all times relevant hereto defendant Amero Logistics, Inc was an
interstate motor carrier engaged in interstate commerce organized under the laws of
the State of Texas with its principal place of business located at 1411 N. Cockrell Hill
Rd, #737, Dallas, Texas 75211.

1.3 At all times relevant hereto plaintiff alleges that Erick Estrada was an
employee or agent of defendant and was operating within his scope of employment or

1 agency at the time of the accident. Defendant Amero Logistics is vicariously liable to
2 plaintiff for the negligence of Erick Estrada under the theory of *respondeat superior*.

3 1.4 The automobile accident and negligent acts and damages alleged herein
4 occurred in or around Boise City, Cimarron County, Oklahoma.
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6 **II. JURISDICTION AND VENUE**

7 2.1 The Court has jurisdiction over this action under 28 U.S.C. § 1332(a)
8 because the matter in controversy exceeds \$75,000.00, exclusive of costs, it is between
9 citizens of different states, and because the defendant has certain minimum contacts
10 with the State of Oklahoma such that the maintenance of the suit in this district does
11 not offend traditional notions of fair play and substantial justice.
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13 2.2 Venue in the United States District Court for the Western District of
14 Oklahoma is proper pursuant to 28 U.S.C. § 1391(a)(2) because a substantial part of
15 the events or omissions giving rise to the plaintiff's claims and causes of action
16 occurred in this judicial district – i.e., a 4,000 pound steel casing fell from defendant's
17 truck onto a highway into which plaintiff collided while driving in his tractor-trailer.
18 Additionally, defendant was subject to the personal jurisdiction in this judicial district
19 at the time of the commencement of the action.
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22 **III. GENERAL ALLEGATIONS**

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24 3.1 On December 13, 2017, plaintiff was employed by Sole Transport whose
25 principal place of business was located in Portland, Oregon, and was driving a 2010
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1 International Freightliner tractor-trailer combo that was fully loaded. It was
2 approximately 11:00 p.m. and plaintiff was heading north on Highway 287 towards
3 Boise City, OK. It was a dark night with no highway lighting in the area and no
4 ambient lighting in the area.

5
6 3.2 Unbeknownst to plaintiff, a four thousand pound steel casing had become
7 unsecured and fallen off the back of another tractor-trailer, which was later discovered
8 to have been driven by Erick Estrada, who was employed by defendant Amero
9 Logistics.

10
11 3.3 The steel casing lay in the middle of the northbound lane, obscured in the
12 darkness, until plaintiff came upon it. Plaintiff attempted to evade the casing but was
13 unable to avoid the casing and was unsuccessful in any other evasive maneuver.
14 Plaintiff's tractor collided with the casing, causing his truck to veer to the right and
15 fall onto its passenger side and slide off the edge of the raised highway down into the
16 scrub brush below.

17
18 3.4 Plaintiff sustained significant injuries and other damages as a result of the
19 collision.

20 **IV. CAUSES OF ACTION**
21 **Negligence**

22 4.1 Plaintiff repeats and realleges each and every allegation contained in
23 paragraphs 1 – 3 of this Complaint and incorporates them herein as if plead in full.
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1 4.2 Defendant and its employees and agents owed a duty to the plaintiff to use
2 reasonable care in securing his load and transporting that load on the highways of the
3 State of Oklahoma.

4 4.3 Defendant had a duty to ensure that each and every of its employees and
5 agents was in compliance with all statutes, laws, and regulations, pertaining to the
6 transportation of goods, including, but not limited to: OSC 47.14-105(a)(b) failure to
7 secure load, and Oklahoma criminal code, 21 OK Stat § 21-1465 (2015), which is a
8 misdemeanor violation forbidding a carrier from abandoning a load on a public
9 highway.
10

11 4.4 Defendant had a duty to properly supervise, train, and monitor its
12 respective employees and to ensure their compliance with all applicable statutes, laws,
13 regulations and safety codes pertaining to the transportation of goods.
14

15 4.5 Defendant breached that duty owed to plaintiff when its employee/agent
16 failed to secure his load which fell off his trailer and was the proximate cause of
17 plaintiff's injuries and damages. Additionally, Mr. Estrada was negligent in failing to
18 monitor the load in a timely manner so as to be able to prevent the type of accident
19 suffered by plaintiff when a load does become unsecured.
20

21 4.5 As a direct and proximate result of Mr. Estrada's and, by extension,
22 defendant's negligence, the plaintiff sustained injuries and damages in an amount to
23 be determined at trial.
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V. DAMAGES

5.1 Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 – 4 of this Complaint.

5.2 As a direct and proximate result of the negligence alleged herein by the defendant, plaintiff has suffered physical injuries and is entitled to be compensated for those injuries.

5.3 As a direct and proximate result of the negligence alleged herein by the defendant, plaintiff has incurred medical expenses and other out of pocket expenses and is entitled to be compensated therefrom in an amount to be proven later at trial.

5.4 As a direct and proximate result of the negligence alleged herein by the defendant, plaintiff has suffered and will continue to suffer physical pain and suffering and is entitled to be compensated therefrom.

5.5 As a direct and proximate result of the negligence alleged herein by the defendant, plaintiff has suffered mental and emotional distress, loss of life's enjoyment, and is entitled to be compensated therefrom.

5.6 As a direct and proximate result of the negligence alleged herein by the defendant, plaintiff has suffered property damage to the vehicle and is entitled to be compensated therefrom.

5.7 As a direct and proximate result of the negligence alleged herein by defendant, plaintiff has suffered wage loss and other pecuniary loss in an amount to proven at trial.

1 5.8 Plaintiff is entitled to costs and attorney's fees incurred herein.

2 5.9 Plaintiff is entitled to prejudgment interest on all damages and out-of-pocket
3 expenses directly and indirectly caused by the negligence alleged herein.
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5 **VI. PRAYER FOR RELIEF**

6 **WHEREFORE Plaintiff** demands a jury trial and prays for judgment over and
7 against defendant for all causes of action pled, and for all injuries and damages
8 allowed, provided for or permitted by the common law and statutory laws of the State
9 of Oklahoma and in such amount that shall be determined by the finder of fact under
10 the evidence presented at arbitration or trial, together with any such available damages
11 to include:
12

13 6.1 For an award of damages compensating Plaintiff's medical expenses and
14 other economic losses in an amount to be proven at trial.

15 6.2 For an award of damages compensating Plaintiff's physical pain and
16 suffering in an amount to be proven at trial.

17 6.3 For an award of damages compensating Plaintiff's mental and emotional
18 distress in an amount to be proven at trial.
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20 6.4 For an award of damages compensating Plaintiff's property damage and
21 loss of use in an amount to be proven at trial.

22 6.5 For an award of damages compensating Plaintiff's costs, including
23 arbitration, and attorney's fees in an amount to be proven at trial.
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6.7 For any other relief that this court deems just and equitable.

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